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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,040	04/15/2004	Carl C. Brittain	2236-140CON	7396

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EXAMINER

LEE, JINHEE J

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

46n

Office Action Summary	Application No.	Applicant(s)	
	10/825,040	BRITTAIN ET AL.	
	Examiner	Art Unit	
	Jinhee J Lee	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0404</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 11 and 12 are objected to because of the following informalities:

Claim 1 line 1, the phrase "In a vibration damper, a clamp" has an error.

Examiner suggests "A clamp in a vibration damper" instead to correct the error.

Claim 11 line 1, the phrase "In a vibration damper having a clamp" has an error.

Examiner suggests "A clamp in a vibration damper" instead to correct the error.

Claim 12 line 1, the phrase "In a vibration damper, a clamp" has an error.

Examiner suggests "A clamp in a vibration damper" instead to correct the error.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-7, 10, 12, 14-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawkins et al. (4554402).

Re claim 1, Hawkins et al. discloses a clamp (14) in a vibration damper for attachment to a suspended conductor, said vibration damper including a damping structure, and said clamp comprising: a base (unnumbered on 14, seen in figure 1) having a housing (peripheral wall portion that provide an enclosed space 28) for attachment to said damping structure (32) and a first clamp member (unnumbered

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portion of 14 including 16 and 22 seen in figure 1) extending from said housing; a second clamp member (unnumbered portion of 14 seen in figure 3), said first and second clamp members cooperating to provide a passageway (unnumbered, holding conductor 12) for said suspended conductor (12), and one of said first and second clamp members including an extension section (22); and a fastener (unnumbered) for securing said second clamp member to said first clamp member, said extension section preventing rotation (see figures 2 and 3) of said second clamp member about said fastener (see figures 1-3).

Re claim 2, Hawkins et al. discloses a clamp wherein said extension section is a first extension section (unnumbered, one side of 22), said first extension section prevents rotation of said second clamp member about said fastener in a first direction, and said one of said first and second clamp members includes a second extension section (unnumbered, the other side of 22), said second extension section preventing rotation of said second clamp member about said fastener in a direction opposite said first direction (see figures 2 and 3).

Re claim 3, Hawkins et al. discloses a clamp wherein said second clamp member is positioned between said first and second extension sections (see figures 2 and 3).

Re claim 5, Hawkins et al. discloses a clamp wherein when said first clamp member includes said extension section (22), said extension section projects a distance from said first clamp member, said distance being greater than a maximum gap width between a first inner surface of said first clamp member and a second inner surface of said second clamp member (see figure 3).

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Re claim 6, Hawkins et al. discloses a clamp wherein said fastener (unnumbered) secures said second clamp member to said first clamp member in either of a loosened and a tightened configuration, said loosened configuration enabling passage of said suspended conductor into said passageway, and said tightened configuration enabling said clamp to be retained on said suspended conductor (see figures 2 and 3).

Re claim 7, Hawkins et al. discloses a clamp wherein second clamp member is restricted to translational movement in response to adjustment of said fastener (see figures 2 and 3).

Re claim 10, Hawkins et al. discloses a clamp wherein said fastener establishes a single attachment point of said second clamp member to said first clamp member (see figures 2 and 3).

Re claim 12, Hawkins et al. discloses a clamp (14) in a vibration damper for attachment to a suspended conductor (12), said vibration damper including a damping structure, and said clamp comprising: a base (unnumbered portion of 14 seen in figure 1) having a housing (peripheral wall portion 28 for example) for attachment to said damping structure and a first clamp member (unnumbered portion of 14, including 16 and 22 seen in figure 1) extending from said housing, said first clamp member having a first extension section (unnumbered portion of 22 on one side) and a second extension section (unnumbered portion of 22 on the other side); a second clamp member (unnumbered portion of 14 seen in figure 3) positioned between said first and second extension sections, said first and second clamp members cooperating to provide a

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passageway (unnumbered, holding 12) for said suspended conductor (12); and a fastener (unnumbered) for securing said second clamp member to said first clamp member, said first and second extension sections (22) continuously abutting said second clamp member to prevent rotation of said second clamp member about said fastener (see figures 1-3).

Re claim 14, Hawkins et al. discloses a clamp wherein said first and second extension sections project a distance from said first clamp member, said distance being greater than a maximum gap width between a first inner surface of said first clamp member and a second inner surface of said second clamp member (see figures 2 and 3).

Re claim 15, Hawkins et al. discloses a clamp wherein said fastener secures said second clamp member to said first clamp member in either of a loosened and a tightened configuration, said loosened configuration enabling passage of said suspended conductor into said passageway, and said tightened configuration enabling said clamp to be retained on said suspended conductor (see figures 2 and 3).

Re claim 16, Hawkins et al. discloses a clamp wherein second clamp member is restricted to translational movement in response to adjustment of said fastener (see figures 2 and 3).

Re claim 19, Hawkins et al. discloses a clamp wherein said fastener establishes a single attachment point of said second clamp member to said first clamp member (see figures 2 and 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al.

Re claim 4, Hawkins et al. substantially discloses a clamp as set forth in claim 1 above. Hawkins et al. does not explicitly disclose wherein said extension section projects in a direction transverse to a longitudinal axis of said passageway. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the extension section project in a direction transverse to a longitudinal axis of said passageway, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

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Re claim 13, Hawkins et al. substantially discloses a clamp as set forth in claim 12 above. Hawkins et al. does not explicitly disclose wherein said first and second extension sections project in a direction transverse to a longitudinal axis of said passageway. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first and second extension sections project in a direction transverse to a longitudinal axis of said passageway, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

7. Claims 8-9, 11 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. in view of Amos et al. (5085583).

Re claim 8, Hawkins et al. substantially discloses a clamp as set forth in claim 1 above. Hawkins et al. does not explicitly disclose wherein said fastener is an eyebolt. However, Amos et al. teaches of an eyebolt used as a fastener (see figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the eyebolt of Amos et al. on the clamp of Hawkins et al. in order to hold cable.

Re claim 9, note that the eyebolt of Amos et al. includes a shaft having a first shaft end (9 threaded shaft) and a second shaft end (unnumbered on the other end of 10), a threaded portion (9) being located at said first shaft end, and a loop portion being located at said second shaft end (see figure 2).

The limitation of stating that the threaded portion is for interconnection with said first and second clamp members and the loop portion is for engagement with an

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installation tool for said vibration damper, discloses an intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re claim 11, Hawkins et al. substantially discloses a clamp (14) in a vibration damper for attachment to a suspended conductor (12), said clamp including a first clamp member (unnumbered portion of 14 seen in figure 1) and a second clamp member (unnumbered portion of 14 seen in figure 3), a fastener (unnumbered) for securing said second clamp member to said first clamp member. Hawkins et al. does not explicitly disclose said fastener comprising: a shaft having a first shaft end and a second shaft end; a threaded portion located at said first shaft end configured for interconnection with said first and second clamp members; and a loop portion located at said second shaft end for engagement with an installation tool for said vibration damper. However, Amos et al. teaches of a fastener (eyebolt 10) comprising: a shaft having a first shaft end (9 threaded shaft) and a second shaft end (unnumbered on the other end of 10); a threaded portion (9) located at said first shaft end; and a loop portion located at said second shaft end (see figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fastener of Amos et al. on the clamp of Hawkins et al. in order to hold cable.

The limitation of stating that the threaded portion is configured for interconnection with said first and second clamp members and the loop portion is for engagement with an installation tool for said vibration damper, discloses an intended use. It has been

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held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re claim 17, Hawkins et al. substantially discloses a clamp as set forth in claim 12 above. Hawkins et al. does not explicitly disclose wherein said fastener is an eyebolt. However, Amos et al. teaches of an eyebolt used as a fastener (see figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the eyebolt of Amos et al. on the clamp of Hawkins et al. in order to hold cable.

Re claim 18, note that the eyebolt of Amos et al. includes a shaft having a first shaft end (9 threaded shaft) and a second shaft end (unnumbered on the other end of 10), a threaded portion (9) being located at said first shaft end, and a loop portion being located at said second shaft end (see figure 2).

The limitation of stating that the threaded portion is for interconnection with said first and second clamp members and the loop portion is for engagement with an installation tool for said vibration damper, discloses an intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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Response to Arguments

8. Applicant's arguments with respect to claims 1-19 in view of the parent application have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M, T, Th and F at 6:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinhee J Lee
Patent Examiner
Art Unit 2831

